THE HON'BLE SRI JUSTICE R.SUBHASH REDDY

WRIT PETITION NO.13208 OF 2001

DATED 30-01-2006

Between:

The Grampanchayat, Ananthagiripalli Village,

Rep. by its Sarpanch, Sri K.Mallaiah,

S/o Mallaiah, aged about 38 years,

Occupation:Sarpanch, R/o Ananthagiripalli Village,

Wargal Mandal, Medak District.

....Petitioner

And

The Revenue Divisional Officer, Medak,

Medak District and 5 others.

....Respondents

THE HON'BLE SRI JUSTICE R.SUBHASH REDDY

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ORDER:

This writ petition is filed by Ananthagiripalli Village Gram Panchayat seeking Mandamus to declare the inaction of the respondents in preventing the diversion and interference with minor irrigation tanks situated within the jurisdiction of the petitioner-Gram Panchayat, as illegal and arbitrary and with a further direction to the respondents to perform their public duty in protecting the

minor irrigation tanks, by passing appropriate orders.

In the affidavit filed in support of this writ petition, it stated that there are five minor irrigation tanks within
the limits of the petitioner-Gram Panchayat namely Ithankunta, Makaikunta, Davaracheruvu, Kistammakunta and Boddonikunta. The catchment area for Ithankunta
is Masuri forest area situated in Sy.No.346 of Ananthagiripalli village. The surplus water from Ithankunta tank feeds the other tanks namely Makaikunta, Davaracheruvu and Kistammakunta. The above tanks are the only source of irrigation for the lands situated in the petitioner-Gram Panchayat and several acres of land are under their cultivation. It is the case of the petitioner-Gram Panchayat that the fifth respondent, who is the Chairman of the Water Users Association and the sixth respondent, who is Sarpanch of Ghanapuram village, started digging water channel from Ithankunta tank, which is situated within the limits of the petitioner-Gram Panchayat, with a view to connecting the same to Gowthai cheruvu situated in the Ghanapuram village of Toopran Mandal. All the ayacutdars of the petitioner-Gram Panchayat objected to the same and stopped the work. They have submitted representations to the first and second respondents and since no action has been taken, the petitioner-Gram Panchayat has filed this writ petition.

The fourth respondent-Executive Engineer, Irrigation Department, Medak has filed counter-affidavit stating that the rainfall water which comes from the hillocks and catchment area of Ghanapuram village of Toopran Mandal and Ananthagiripalli village of Wargal Mandal, Medak District, flows into Ithankunta tank since it is an upper tank. After filling the Ithankunta tank, the surplus water will flow into the other resources. It is further stated that the villagers of Ghanapuram village, Toopran Mandal requested the respondents to restore the old abandoned feeder channel of Gowthai cheruvu of Ghanapuram Village. Accordingly, the officials conducted survey and found that the surplus water of Ithankunta tank was going waste into Haldi vaagu and to tap the water, the respondents have taken steps to repair the abandoned feeder channel.

It is submitted by Sri M.V.Durga Prasad, learned counsel appearing for the petitioner-Gram Panchayat that the water bodies within the gram panchayat limits of Ananthagiripalli are independent water bodies. Despite the fact that the

respondents 5 and 6 are digging a channel so as to take the surplus water to connect the same to Gowthai cheruvu situated at Ghanapuram village of Toopran Mandal without any authority of law and permission from the competent authority, as required under the provisions of the A.P (Telangana Area) Irrigation Act 1357 Fasli, no action has been taken by the respondents.

On the other hand, it is submitted by the learned Government Pleader appearing for the respondents that it is not a new irrigation channel which is being dug. It was on the request of the villagers of Ghanapuram village survey was conducted. It was found that the water from Ithankunta tank was going waste. Accordingly, the matter was enquired into and decided to repair the abandoned feeder channel which connects to Gowthai Cheruvu of Ghanapuram Mandal. Moreover, the said channel which was being repaired is not a new one and as such no permission is required from the competent authority.

When the matter was heard, this Court has directed the learned Government Pleader for Irrigation to place the relevant record pertaining to this matter. Today, the learned Government Pleader has produced the record concerning the steps which were taken for repairing the Gowthai Cheruvu of Ghanapuram village.

Perused the entire record. The record discloses that Gowthai cheruvu of Ghanapuram village is a minor irrigation tank having ayacut of settled 181 hectares and maintained by the Irrigation Department. When a walk through survey was conducted it was noticed that out of 181 hectares of settled ayacut, only 89 hectares of land was being irrigated and there was 92 hectares of gap ayacut. The Executive Engineer after necessary enquiry has registered some proposed repair works to the Gowthai Cheruvu by improving the feeder channel with drops and culverts etc. In that context, after necessary approvals to the estimates prepared, the works were being taken up.

From the counter-affidavit and record, which is produced by the Government Pleader, it is very clear that the proposed feeder channel was not taken up on their own by the fifth and sixth respondents. The said steps were taken pursuant to the estimates prepared and approved by the competent authority for repairing the abandoned feeder channel which connects to Gowthai Cheruvu of Ghanapuram village. It is contended by the learned counsel

appearing on behalf of the petitioner-Gram Panchayat that the respondents cannot take up the work since there was no permission as required under Section 5 of the A.P (Telangana Area) Irrigation Act 1357 Falsi. However, it is to be noticed that it is not a construction of a new channel so as to take up the same after grant of permission, as per the above section. It is only a repair work which was undertaken by the respondents for improving the abandoned feeder channel and also for improving the water levels for feeding the entire ayacut registered under Gowthai cheruvu of Ghanapuram Mandal.

In the circumstances, the submission of the learned counsel for the petitioner-Gram Panchayat that the works taken up by the respondents 5 and 6 are illegal as they are without permission, cannot be accepted. Except the above ground, no other grounds are urged.

Accordingly, the writ petition is dismissed. There shall be no order as to costs.

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30-01-2006.

Lrkm.